

December 5, 2003

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room CY-B402
Washington, DC 20544

Re: *Notice of Ex Parte Presentation*
CC Docket Nos. 96-262 and 01-92

Dear Ms. Dortch:

In accordance with Commission rules, this will provide notice that J.T. Ambrosi, Vice President of Carrier & Government Relations for PAETEC Communications, Inc. ("PAETEC"), and I met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, on December 2, 2003, concerning the various pending petitions in the above proceedings regarding CLEC access charges. PAETEC, a facilities-based CLEC and interexchange carrier, noted that the transitional phase-down of CLEC access rates implemented by the Commission's benchmark order has worked well, and has significantly ameliorated the concerns identified in some of the petitions. PAETEC believes that it acted reasonably in interpreting previous Commission rulings to permit a CLEC to charge the full benchmark rate without regard to which functional access elements were being provided in a given scenario, and to permit a CLEC to assess access charges on traffic originating from a CMRS provider. PAETEC warned that retroactive, or even immediately prospective, Commission action to the contrary would penalize CLECs who relied on those reasonable interpretations in structuring their commercial, financial and network arrangements over the past three years, and whose budgets for the coming year must already take into account the drop to ILEC rates scheduled for June 2004. PAETEC noted that the ability of a CLEC to charge its lawful access rates should not depend on whether the entity from whom the traffic originates – whether a hotel, a university, or a CMRS provider – could have filed an access tariff of its own, nor on whether the CLEC has arranged to share a portion of its access revenues with the originating entity.

Respectfully submitted,



John B. Messenger
Vice President & Associate General Counsel
PAETEC Communications, Inc.

cc: Matthew Brill